

Wisconsin Department of Transportation
Statewide Multi-modal Improvement Program (SMIP) includes:
Local Transportation Enhancements (TE) Program

Guidelines: Calendar Year 2004 Submittal for FYs 2006-2007 Funding

What is the program all about and how much money is available?

Please Note: This is not a grant program – the Public Sponsor is reimbursed for 80% of approved project costs incurred and if all federal project requirements are met.

As part of the federal Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 as re-authorized in 1998 under the **Transportation Equity Act for the 21st Century (TEA-21)**, the Wisconsin Department of Transportation (WisDOT) receives federal funds to provide a variety of improvement programs, including the Local Transportation Enhancements (TE) program. The program is designed to fund projects that increase multi-modal transportation alternatives and enhance communities and the environment.

Major SMIP Program Change for 2004 – STP-Discretionary (STP-D) funding is no longer available to supplement the TE program. The funding was eliminated in the 2003-2005 state biennial budget. This means that there will be overall lower funding levels for all projects, with bicycle and pedestrian facilities the most affected because they were eligible for both programs in the past. Bicycle system planning projects will not be eligible because they were only fundable through the STP-D program. Non-bicycle and pedestrian projects to reduce single-occupant vehicle travel, such as transit capital acquisitions, are also not eligible in the absence of STP-D funding.

As indicated in past applications, we make our projections under the assumption that the State Legislature will continue existing programs at the same funding level that existed at the time projects are requested. We undertake multi-year programming commitments to all types of transportation projects to make sure that projects are ready to use Wisconsin's federal funding resources when they become available and because of the long lead time needed to select and approve projects, obtain local funding commitments, undertake design, acquire real estate (if needed) and construct the projects. In the case of the 2003-2005 state budget there were changes that reduced funding for multi-modal projects - primarily from the elimination of STP-D funding. Instead of the \$9.47 million per year available for both programs, there is now \$6.25 million for the TE program alone. We also had to make use of some TE program spending authority from this cycle to avoid canceling STP-D funded projects submitted and approved in the last funding cycle. We commit two years of funding per application cycle. Our best estimate is that only about \$9 million in new funding will be available in 2004 for State Fiscal Years (SFY) 2006 and 2007, less than half of what was distributed in Calendar Year (CY) 2002.

Additionally, the federal TEA-21 transportation bill we are operating under is up for re-authorization at this time. Reauthorization could extend well into 2004. Reauthorization of the federal bill that replaces TEA-21 could require changes in the future TE funding level and program requirements that might affect projects selected in this program cycle. New federal funding levels will in turn affect funding for the next state budget. ***There is the possibility that***

changes could be introduced into the 2005-2007 State Biennial Budget that will affect the funding and scheduling of local projects submitted in calendar year 2004.

We are soliciting projects in calendar year 2004 primarily for SFYs 2006-2007. Because we have already programmed funds in FY 2005 for projects solicited in calendar 2002, most of the new funding will be primarily targeted to projects in SFY 2006 (begins July 1, 2005) and SFY 2007 (begins July 1, 2006). Design work, and at best very limited funds for Construction work, will be available starting in FY 2006. Most Construction will need to wait until SFY 2007. If your project cannot wait until these time frames, you should not apply for funding. Availability of Design funds in FY 2005 and Construction in FY 2006 will depend on how many projects from 2002, which were scheduled for FYs 2003-2005, are either canceled or experience major implementation delays. At this point, we cannot guarantee any new funding for SFY 2005.

What projects are eligible for funding?

We will now cover the eligibility funding categories for the TE program that are regulated by federal guidelines. The **first requirement of an Enhancements project** is that it must fit in to one of the following twelve categories.

- Provision of facilities for pedestrians/bicycles + (see note below)
- Provision of safety and educational activities for pedestrians & bicyclists
- Preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails) +
- Historic Preservation* (see note below)
- Rehabilitation/operation of historic transportation buildings (including historic railroad facilities and canals)*
- Establishment of transportation museums
- Acquisition of scenic easements and scenic or historic sites
- Scenic or historic highway programs (including the provision of tourist and welcome center facilities)
- Landscaping and other scenic beautification
- Control and removal of outdoor advertising
- Environmental mitigation of water pollution due to highway run-off or reduce vehicle caused wildlife mortality while maintaining habitat connectivity
- Archeological planning and research

*In Wisconsin, historic projects must meet the additional test of being on or eligible for the National or Wisconsin Register(s) of Historic places or on an official local historic register based on an adopted local landmarks ordinance. If a project does not already have register status, forms can be submitted to the Wisconsin Historical Society to determine if it would be deemed eligible for such status. The form for requesting a determination of eligibility is available at:

http://www.wisconsinhistory.org/hp/buildings/property_eligible.asp

Call Jim Draeger at (608) 264-6511 or by e-mail at jdraeger@whs.wisc.edu to obtain information. Project proposals that involve either historic preservation or the rehabilitation and operation of historic transportation buildings, structures or facilities must provide proof at the time of application that the proposed project meets one of these criteria.

+Federal guidelines provide wide latitude on the type of bicycle facilities that can be funded with Enhancements. For Wisconsin's program, we place an emphasis on bicycle and pedestrian facilities that

will serve at least some utilitarian trips, e.g., for work, school, and shopping that might otherwise be made by automobile.

The **second requirement** for a project to be eligible for TE is that **the project must “relate to surface transportation”**. This second federal requirement is subject to considerable interpretation, particularly for some project categories. The burden of proof is on the applicant to demonstrate that their project relates to surface transportation. Our experience is that historic projects will need to be handled on a case-by-case basis. Historic related projects will generally need to justify their relationship to surface transportation by citing project characteristics other than just being visible from a highway or road. Historic preservation and restoration projects will usually involve the rehabilitation of a historic transportation related structure. Historic planning or research related activities - except in the case of archeology - generally do not meet federal TE guidelines unless they are part of an overall project that results in actual rehabilitation work. Categories such as tourist and welcome centers and transportation museums are also likely to raise a considerable number of questions regarding eligibility.

With so many questions likely to arise as to the eligibility of projects, it is impossible to address every one of them in this document. We recommend that you call the WisDOT District or Central office contact on page 11 to discuss your project if you have concerns about its eligibility. They can also supply you with copy of the **Federal Highway Administration (FHWA)** Transportation Enhancements guidance and recent “Q & As” that address a number of project category specific issues and questions. You can also find a copy of the federal guidance on the following website:

www.fhwa.dot.gov/environment/te.htm.

Applicants should also make sure that all the elements of their project are eligible and integral to the project and that they do not “pad-in” irrelevant or ineligible project components. This is most often the case with landscaping and streetscaping type projects, or for bicycle and pedestrian facilities where the applicant wants to include trail amenities. Projects will be examined for inappropriate cost items by WisDOT staff. Applicants may be requested to resubmit applications omitting the problem line item expenses before they can be considered eligible for funding. All projects will be screened for eligibility and only eligible projects will be considered. If you submitted a project in 2002 and it was not approved, it must be re-submitted.

Who can apply for funding?

In Wisconsin, state agencies, counties, cities, villages, towns and Indian Tribal Nations may apply for funding. Sponsors must generally be public agencies with taxing authority that can guarantee matching funds. WisDOT will administer the program for the state as an agent of FHWA. The sponsor will finance the entire project until the federal government share, up to 80% of the approved project amount, is reimbursed by FHWA. State agencies applying for projects on state-owned land should plan on the participation of the Department of Administration (DOA) in project management and as co-sponsors of the Project Agreement.

Private entities can apply for funds indirectly, but we recommend that they be non-profit corporations. It will be necessary for a private group wishing to propose a project to convince a local unit of government or state agency to be a public sponsor and agree to guarantee the matching funds. This action is needed to ensure that the money will be available to match the

federal aid when the project is ready to be built. If the private entity is providing the matching funds, it should reach an agreement with the sponsor on how the private group will transfer funds to the public sponsor. Reimbursement of funds cannot be made directly to private organizations or individuals and must be made to the sponsor. Federal regulations require that the project be under public ownership and/or control and that the sponsor guarantee that the project will be maintained for the useful life of the facility. Experience indicates that private-for-profit agencies will have difficulty meeting these provisions and we caution them about applying for funds through a public sponsor. Portions of projects that relate to the development of for-profit enterprises are **not** eligible for federal funding under this program.

Is there a minimum project amount that we can apply for?

To ensure efficient utilization of local and state administrative resources and to promote more significant projects, the following minimum project sizes have been established for both programs. **Construction projects must be \$100,000 and over**, including any design work. A new change for 2004 is that because of the major time and effort needed to comply with FHWA real estate requirements, sponsors should plan on covering real estate costs under \$100,000 with 100% local funds. These guidelines apply to both Locally Let and State Let projects. It is assumed the projects will be Locally Let, unless the local sponsor and WisDOT District agree to undertake the project as a State Let. Equipment and materials acquisition are allowable but will be considered construction related because federal reimbursement will only occur after installation of the materials ensures that the project is completed.

Stand-alone preliminary engineering work such as developing project specific design, environmental documents and **Plans, Specifications and Estimates (PS&Es)** to construct a project at a future date is also eligible for a project minimum of \$25,000. It is assumed that a stand-alone design project will ultimately result in a construction project unless the engineering study indicates that the project is not feasible to build. Applicants may no longer apply for system-wide (regional, city, county) bicycle planning activities under this program because they are not eligible under the TE program and STP-D funding is no longer available.

Will the Department help the sponsor with the project?

WisDOT District offices will have application materials available. District staff will help screen applications for project and cost eligibility, reasonable cost and schedule estimates and to make sure the project meets various guidelines. District staff will be available to provide technical assistance, but will not review completed applications prior to submittal or become involved in the local priority setting process. Sponsors are responsible for accurate cost estimates. It is the responsibility of the sponsor to read and follow the steps and requirements outlined in the **Sponsor's Guide to Non-Traditional Transportation Project Implementation**.

The sponsor should note that the project must meet all federal state laws and regulations, including federal and state environmental regulations, for each phase of their project. See pages 7-9 for a brief outline of relevant requirements. District office staff can provide technical help and documentation examples for these requirements. Major references include the Sponsor's Guide, appropriate sections of WisDOT's Facilities Design Manual (**FDM**), the United States Code, Title 23 of the Code of Federal Regulations and other documents. Bicycle and pedestrian projects must be consistent with the **American Association of State Highway Transportation Officials (AASHTO) Guide to the Development of Bicycle Facilities**. Close attention should be

paid to AASHTO's limitations on building separated paths adjacent to urban and suburban roadways. Historic building rehabilitation must meet U.S. Department of the Interior standards. While District staff can refer you to the relevant portions of these documents, the sponsor is ultimately responsible for having staff or hiring consultants with the expertise to make sure their project meets these requirements.

What kind of approvals do we need to receive funding for a project?

First, the sponsor will accept and review requested projects from all individuals, groups or organizations and prioritize proposed projects. Each sponsor will have to consider the project(s) as part of its own budget process so the matching funds and the initial expenditures can be guaranteed.

Second, the sponsors will send proposed project applications to the Districts and their Metropolitan Planning Organization (MPO), if applicable. If you are in an urbanized area or 50,000 or more population, your local MPO is required to assign priority rankings to projects within their jurisdiction and these will be factored into the overall state ranking of projects. We encourage local governments to work with their WisDOT District, and MPOs if you are in an urbanized area, to develop projects. The District office will ensure that the application is complete, all of the costs are eligible and the project has a reasonable implementation schedule. If a sponsor is sponsoring more than one project in an urbanized area with a MPO, it should rank each project in priority order, e.g., 1 of 5 for the highest priority among five projects, etc. With your local priorities, MPOs will be better able to develop urbanized area priorities. This ranking is highly recommended, but not required, for communities outside of urbanized areas. MPOs will need to complete this ranking before the review committee meets to review the projects so these rankings can be factored into the committee's list of recommended projects.

Third, the District will forward the applications to the Central office in Madison where projects will receive a final review for eligibility with the help of FHWA.

Fourth, the Central office will prepare a list of eligible projects for review by the committee that reviews and ranks all eligible projects. We expect that the committee reviewing the applications will include a mix of state legislators, state agency officials and citizens from around the state. The exact committee membership has not yet been determined. Last time it included four representatives from the Legislature, various state agencies including the Wisconsin Historical Society, Departments of Natural Resources, Tourism, Commerce and Transportation, and various citizen representatives. Appointments are made through consultation between the WisDOT Secretary and the Governor's office.

The selection committee meets to review and rank projects based on guidelines provided by WisDOT staff, the quality of responses to the major application questions and the priorities provided by MPOs to urbanized projects in their area. WisDOT Central and District staff with knowledge and expertise on many of the program projects are on hand at the meeting to answer informational questions but not to make recommendations. Based on the average ranks of all the projects among the committee members, a program of projects for FYs 2005-2007 is developed within funding and obligation authority restraints. If you have questions concerning any changes to the selection process or committee membership, please call the Multi-modal Program Manager in Madison at 608-264-8723.

Fifth, the review committee's recommendations for expending the available TE funds will be acted on by the WisDOT Secretary who generally accepts the recommendations of the committee. The Secretary makes final approvals for TE projects that are announced to locals through letters from the Governor's office.

Lastly, you will sign a Project Agreement that you receive from WisDOT. Each phase of the project must be authorized for charges by FHWA before reimbursable costs can be incurred. The District will notify you when you can proceed with each phase of your project. The sponsor will pay for costs as they occur and then seek reimbursement through the District for the expenses. **Note:** Starting with this program cycle, applicants receiving a project will be required to undergo a brief training session on the Local Let process unless they plan to State Let projects. This new requirement is now required in response to FHWA concerns raised in 2002 when a random audit of Locally Let projects noted numerous compliance problems with federal project requirements.

How much money do we need to put up and when do we get the federal money?

This is a REIMBURSEMENT program – not a grant program. The public sponsor will be required to commit at least 20% of the project's cost through their local budget process so that money will be available when the project is executed. The matching funds may come from local funding sources, or private contributions if certain conditions are met. As a result of legislation passed in 1995, private donations and in-kind services may be used as matching funds. You may also use some categories of federal funds received by a community as match. Generally, these should not be other sources of federal or state transportation funds. Communities may choose to provide overmatch for a project, but this is usually not a consideration in selecting projects. If project costs exceed the amount awarded for the project, the community will end up overmatching the project anyway since it is responsible for any cost overruns.

After paying the contractor, the sponsor sends a bill to the state for reimbursement of the federal share of the project. The sponsor will then bill the state on a periodic basis (e.g., quarterly) to receive reimbursement for the federal share of up to 80% of the money the sponsor has spent to date. The state, then in turn bills the federal government for the reimbursement of the money paid to the sponsor. This is the normal process used for the FHWA program that is the source of TE. Federal financial procedures require the sponsor to pay the full amount of the contractor's interim billing as the project progresses. In many other federal programs, the sponsor gets the money up front from a grant and does not have to use its own funds for the project until reimbursed by the federal government. **This is NOT the case for FHWA funded projects.**

Who is responsible for the project and what are the requirements?

The sponsor is responsible for completing the entire project in accordance with federal and state laws and regulations. If a project is sponsored on behalf of a private organization, the public sponsor may enter into a legal agreement with the private organization to ensure that the private party complies with the requirements and provides the funds for the local match, but the public sponsor bears ultimate responsibility for the project.

Once the project is in the sponsor's budget and approved in the local MPO's Transportation Improvement Program (TIP) if it is in an urbanized area listed on page 12 (or State TIP in the case of non-urbanized area project), the sponsor must enter into a Project Agreement with the

WisDOT District where the project is located or Central office if the project is statewide. The District will then initiate the paperwork needed to authorize the project for federal charges. This is a key step because the federal government will not reimburse for costs incurred prior to their authorizing a project. Sponsors will be responsible for any costs incurred prior to federal authorization and notification by the District that they can proceed to work on each phase of the project. Please note that receipt of the Governor's letter announcing the project award does **not** carry with it the authority to begin work on the project.

Some of the issues you should watch out for before applying, and then during each phase of a project you are awarded, are detailed below. Our experience is that projects often experience cost overruns and delays. The *helpful hints below* should assist you with avoiding some of the most common problems.

- Make sure you have an eligible project that has local political and financial support to cover the 20% match. If multiple local governments are involved or the public sponsor is working with private non-profit agencies, be sure all the parties involved have agreed to the project, local match shares, roles and responsibilities, etc., beforehand rather than waiting until after the project is approved.
- Develop an accurate cost estimate with the help of your professional staff or hiring expertise if necessary. If you are applying for a bike project, develop cost estimates after considering the AASHTO bike guidelines. Because cost overruns are the responsibility of sponsors, it is important to have an accurate cost estimate that takes into consideration foreseeable problems that could add to your costs. General guidelines for developing bicycle facility cost estimates are available from your District Office. If real estate is involved, consider contacting the District staff in charge of real estate for advice on cost and compliance issues.
- **Watch out for the following issues** - Depending on the proposed site and type of project, these may include: the presence of protected historical, natural resource (e.g., wetlands) or archeological resources, contaminated soils and anything requiring the purchase or use of railroad right-of-way including crossing railroads. Railway right-of-way issues are one of the most common sources of delay for projects!

Important information for bicycle facility projects - Because federal transportation funds are the source of the programs, projects are targeted to transportation uses rather than purely recreational activities. All Terrain Vehicles (ATVs) are ***not allowed*** on TE trails and **snowmobiles are allowed only by local ordinance**. Sponsors will need to decide on whether or not they want to allow snowmobiles and factor this into the surface type chosen for the facility and their maintenance policies. **Shared equestrian usage should be avoided**. Since our last application cycle, FHWA has determined that trail fees are permissible only if all fees are used to maintain the trail facility. As a matter of policy, WisDOT considers fees as discouraging the use of a trail for transportation purposes. Applicants should indicate whether they intend to charge fees on the facility they are applying for.

Once you are awarded an approved project, your project will involve one or more of the following project phases, each with their own special requirements and issues.

Preliminary Engineering and Design: Because these projects are let for competitive bid, you will need to develop a plan for the project that allows it to be properly constructed. Local governments may use their own staff if they are qualified to do the work or the staff of other government units, including planning agencies, if they have staff qualified to do the work. If the sponsor does not have adequate staff of its own available to prepare the Plans, Specifications and Estimates (PS&E), a qualified private consultant who is familiar with state and federal laws, regulations and procedures must be hired by the sponsor to do the job. This will usually be an engineer for projects such as constructing bicycle facilities or an architect for historic rehab type work.

The sponsor must follow federal procedures for hiring a private consultant. These require that a **Qualifications Based Selection (QBS)** process be used to make the decision. You may not just automatically hire a local firm or one that has routinely performed work for you. District staff will be able to provide you with assistance and examples of guidelines that will help you meet federal and state requirements such as filling out the Environmental Checklist, one of the first steps you need to undertake before proceeding on a project.

Real Estate: This is one of the most complicated areas for complying with federal and state laws and can be a source of delay for a project. Because of this, we have added a new requirement that real estate costs under \$100,000 be entirely locally funded. It will be preferable if the sponsor already owns the land needed for the project or acquires the land using local rather than federal funds. This will reduce the level of compliance requirements. In either case, the Uniform Act must be followed. If federal funds are to be used for the project, you should consult with the Local Public Agency (LPA) coordinator in the District to make sure you comply with all requirements for each step of the real estate acquisition process. It will help if the sale is voluntary and without the threat of condemnation by the sponsor. Utility relocation costs may also be required. If the proper procedures are not followed, reimbursement of eligible project costs may be jeopardized.

Railroad Crossing: If your project, such as a bicycle or pedestrian trail, crosses an active rail line then a separate project will be required to handle construction related work involving the railroad's tracks and right-of-way. This work will be undertaken by the railroad directly or by contractors the railroad hires to do the work.

Construction: Most projects will be Locally Let to the lowest cost qualified bidder. Consult with the District office for the procedures you need to follow such as advertising, meeting Disadvantaged Business Enterprise (DBE) goals if assigned to the project, complying with federal and state wage rates and awarding the bid. If the project is in federal highway right-of-way (which many TE projects will not be), locals must follow Davis-Bacon wage rate requirements that generally require paying prevailing union wage rates for labor. Even on projects where Davis-Bacon wage rates do not apply, the so-called state "white sheet" rates apply and these similarly require paying prevailing union wage rates in parts of the state where the project is located. Sponsors should be careful to consider the cost impact of these requirements on their project when developing the budget in Question # 9 of the application.

There may be cases where WisDOT administers the local project, such as when the project may be done more efficiently as part of a larger state highway project. A typical example would be installing a local bicycle or pedestrian facility in conjunction with a state highway project. If

WisDOT does the local project as a State Let, it will charge the locals for design review and other services accordingly. Locals are allowed to perform construction work with their own forces. However, they must obtain approval from the Districts through a federally required Cost Effectiveness Finding that demonstrates that they can do the work for less and it is in the public interest to have local forces do the work. It is also possible to use voluntary labor if appropriate guidelines are followed.

Note also that the project is subject to audit and the sponsor will need to keep accurate records and reports, such as payroll documents and material specifications pertaining to construction activities. All projects must receive a final field certification to verify that the work was completed in accordance with project requirements before final payment can be made. Design firms hired to prepare plans can provide construction oversight only if there is a responsible local official in charge who can certify that the project was completed according to plan. Significant effort should be made to complete the project within three years of project approval. Extensions may be granted for extenuating circumstances on a case-by-case basis. Sponsors are then required to maintain the project for its useful life. Failure to do so, or the sale of a property that was improved with federal funds prior to the end of the improvement's useful life, will require partial repayment of the federal funds.

Who do I call if I have any other questions?

District Office Contacts

Please refer to the map on page 11 for your community's District staff contact.

Central Office Contact

John Duffe (608) 264-8723 / e-mail address: john.duffe@dot.state.wi.us

Questions regarding the national or state historic register status of projects should be directed to Jim Draeger at the Wisconsin Historical Society (608) 264-6511 or by e-mail: jdraeger@whs.wisc.edu

Local Transportation Enhancements Development Schedule

January 2004 through April 2004: Sponsors develop projects for submittal with help available from WisDOT District Offices and Metropolitan Planning Organizations (MPOs).

April 9, 2004: The TE applicants submit applications to WisDOT Districts and forward copies to their MPOs.

Late April through June 2004: WisDOT compiles a list of proposed projects along with MPO priority listings.

June 2004: A review committee, consisting of citizens, and staff members from other state agencies and WisDOT, meet to recommend a program of projects for approval by the WisDOT Secretary.

September 2004: Project fund recipients and MPOs are notified of TE project approval.

October-November 2004: Projects programmed in WisDOT's financial system and Project Agreements developed. Sponsors may request Districts to consider whether Design work can be scheduled before July 1, 2005 or major Real Estate or Construction before July 1, 2006.

July 1, 2005: New state funds become available for 2005-2007 state biennial budget. We program funds based on the assumption the State Legislature will continue the program at the current funding levels in the 2003-2005 biennial budget. This could change pending the status of the 2005-2007 state budget and new federal transportation bill starting in 2004.

WISCONSIN DEPARTMENT OF TRANSPORTATION

TRANSPORTATION DISTRICT MAP

SMIP CONTACTS

District 8
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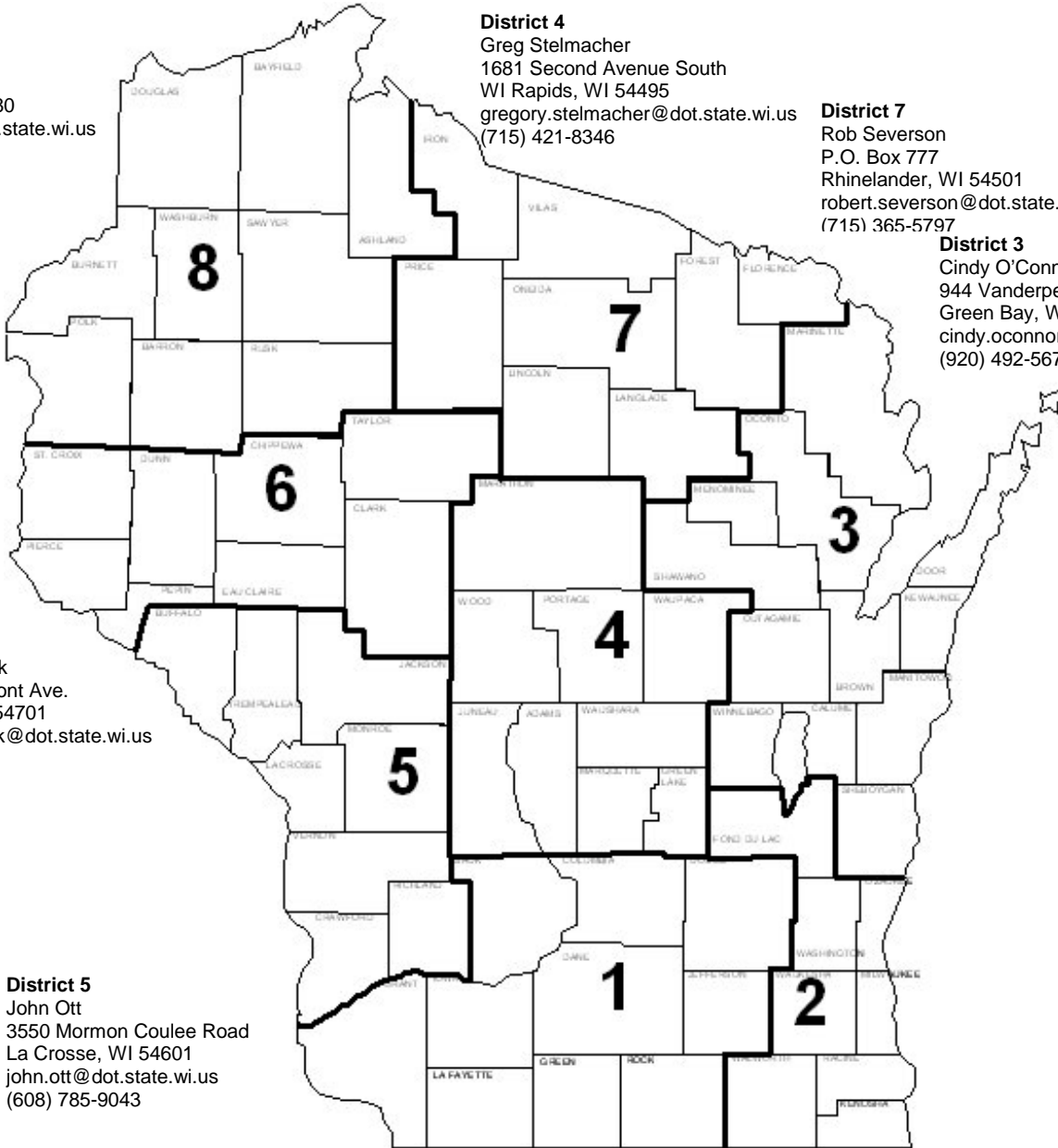
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District 5
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Wisconsin Metropolitan Planning Organizations (MPOs)



* Southeastern Wisconsin RPC (SEWRPC) (Kenosha, Milwaukee, Racine)	(262) 547-6721
Madison Area MPO (Madison)	(608) 266-4137
Brown County Planning Commission (Green Bay)	(920) 448-3400
Duluth/Superior Metropolitan Interstate Committee (Superior)	(218) 722-5545
La Crosse Area Planning Committee (La Crosse)	(608) 789-7512
East Central Wisconsin RPC (Appleton, Oshkosh)	(920) 751-4770
Fond du Lac MPO (Fond du Lac)	(920) 929-3155
Janesville MPO (Janesville)	(608) 755-3095
State Line Area Transportation Study (Beloit)	(608) 364-6606
Chippewa-Eau Claire MPO (WCWRPC) (Eau Claire)	(715) 836-2918
Bay-Lake RPC (Sheboygan)	(920) 448-2820
Marathon County Metropolitan Planning Commission (Wausau)	(715) 547-5597

* The Transportation Improvement Program (TIP) for SEWRPC covers seven counties, as show on the above map.